

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

FILED-CLERK  
U.S. DISTRICT COURT  
2009 MAR 16 PM 1:44  
TEXAS-EASTERN

H. GLENN GUNTER

Plaintiff,

v.

EMPIRE PIPELINE CORPORATION

Defendants.

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§

CIVIL ACTION NO. \_\_\_\_\_

JURY

BY \_\_\_\_\_

**NOTICE OF REMOVAL**

TO: THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF TEXAS, SHERMAN DIVISION:

The Defendant, EMPIRE PIPELINE CORPORATION ("EMPIRE"), pursuant to 28 U.S.C. §1441(b) hereby files its Notice of Removal of the above-captioned case from the District Court of Collin County, Texas, to the United States District Court for the Eastern District of Texas, Sherman Division. The grounds for the removal are based on 28 USC §1331, federal question jurisdiction, and are as follows:

**STATE ACTION**

1. A civil action is now pending in the 296<sup>th</sup> Judicial District Court of Collin County, Texas, bearing the case name as captioned above with Cause Number 296-00651-2009, was filed on February 18, 2009.

2. EMPIRE was served with a Summons and Complaint in this action on February 26, 2009. EMPIRE is contemporaneously filing a Notice of Removal in the 296<sup>th</sup> Judicial District Court of Collin County, Texas, with the filing of this Notice of Removal. A true and correct copy of Plaintiff's Original Petition and all other state court papers received by EMPIRE is attached

hereto as Exhibit "1." Empire filed an answer in the state court which is attached hereto as Exhibit "2."

### **FACTS**

3. Plaintiff sued EMPIRE for wages and compensation allegedly owed him in connection with his employment with EMPIRE in Cause Number 06-01629-K. EMPIRE and Plaintiff entered into a mediated settlement agreement on December 13, 2007 in that cause. EMPIRE agreed to pay Plaintiff the sum of \$500,000.00 as a part of the settlement. EMPIRE tendered a check, Check Number 11103, to Plaintiff originally on April 3, 2008. Although Plaintiff initially returned the Check, it was re-delivered to Plaintiff's counsel on April 30, 2008 by hand delivery, where it remains. Exhibit "3." EMPIRE issued a 1099 to GUNTER in connection with the payment of compensation to GUNTER. GUNTER has sued EMPIRE under several theories, including laws of the United States contained in 26 USC §7434 for alleged fraudulent issuance of an information return, i.e. Form 1099-Misc.

### **FEDERAL QUESTION JURISDICTION**

4. The State Court Action is properly removable under 28 U.S.C. §1441(b) because Plaintiff's Petition raises one or more claims that arise under the laws of the United States over which this Court has jurisdiction.

5. EMPIRE desires to remove this action to this Court and, therefore, files this Notice along with attachments pursuant to 28 U.S.C. § 1441(b), *et seq.*, and this Court has jurisdiction pursuant to 28 U.S.C. § 1331.

6. EMPIRE removes this action within thirty (30) days from the date of service of the Summons and Complaint upon EMPIRE.

**NOTICE TO PARTIES and STATE COURT**

7. Written notice of the filing of this Notice of Removal has been served upon the attorney for the Plaintiff by mail on this date, together with a copy of the Notice of Removal and supporting papers, and has been deposited with the United States Postal Service to be delivered by regular mail to the District Clerk for filing in the record of the 296<sup>th</sup> Judicial District Court of Collin, Texas, as provided by 28 U.S.C. § 1446(d).

**PRAYER**

**WHEREFORE**, Defendant, EMPIRE PIPELINE CORPORATION, prays that the above-entitled case be removed to the United States District Court for the Eastern District of Texas, Sherman Division, pursuant to 28 U.S.C. §1441(b).

Respectfully submitted,

**SHANNON, GRACEY, RATLIFF & MILLER, LLP**

A handwritten signature in black ink, appearing to read 'R. Harris', is written over a horizontal line.

**ROBERT L. HARRIS**  
State Bar No. 09090430  
500 North Akard, Suite 2500  
Dallas, Texas 75201  
Phone: 214-245-3079  
Fax: 214-245-3097  
**COUNSEL FOR DEFENDANT**  
**EMPIRE PIPELINE CORPORATION**

**CERTIFICATE OF SERVICE**

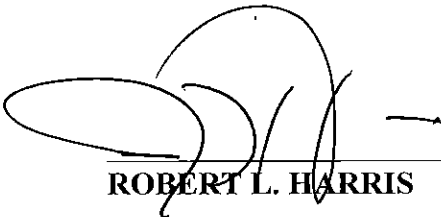
I hereby certify that a true and correct copy of the above and foregoing *Notice of Removal of Case to Federal Court* was served by certified mail, return receipt requested, upon all counsel of record on this 16th day of March 2009, as follows:

Emil Lippe, Jr.  
Law Offices of Lippe & Associates  
Plaza of the Americas, South Tower  
600 N. Pearl Street, Suite S2460  
Dallas, TX 75201  
T 214-855-1850  
F 214-720-6074

ATTORNEY FOR PLAINTIFF  
H. GLENN GUNTER

Via:

☒ CMRRR  
☐ Facsimile  
☐ Federal Express  
☐ Courier  
☐ Hand Delivery (In Person)  
☐ Regular U.S. Mail  
☐ Notice of Electronic Filing

  
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ROBERT L. HARRIS